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SUBJECT: U.S. AND VIETNAM AGREE TO OPEN SKIES CARGO REGIME

REF: HANOI 1113

HANOI 00001215 001.2 OF 002

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¶1. (U) Summary: Delegations from the United States and Vietnam agreed ad referendum to an Open Skies regime for cargo services on October 7 following two days of talks in Hanoi. The new agreement will renew the 2003 Air Transport Agreement for three years and the delegations intend to meet within two years to work toward further liberalization, including a possible exchange of fifth freedom passenger rights. The main impediment to a full Open Skies Agreement was the GVN's unwillingness to grant U.S. carriers fifth freedom passenger rights over Japan. End summary.

VIETNAM AGREES TO OPEN SKIES CARGO REGIME  
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¶2. (U) Delegations from the United States and Vietnam agreed ad referendum to a new Open Skies regime for cargo services following two days of talks in Hanoi, October 6-7 2008. The cargo arrangement, which incorporates seventh freedom rights, provides increased flexibility for U.S. cargo carriers such as FedEx Express and UPS, which currently operate in Vietnam, including the right to move goods between Vietnam and third countries. While the agreement does not permit intermodal cargo surface transport across Vietnam's border, the GVN's Ministry of Transport indicated that it may lift that restriction after further consideration.

¶3. (SBU) Lai Xuan Thanh, the Deputy Director General of the Civil Aviation Administration of Vietnam (CAAV), who led the Vietnamese side at the talks, pressed the U.S. to introduce new language into the agreement that would have restricted U.S. cargo carriers from establishing hubs at Hanoi's Noi Bai and Ho Chi Minh City's (HCMC) Ton Son Nhat International Airports. Thanh, moreover, sought the introduction of a provision specifying central Vietnam's Chu Lai International Airport as the only airfield in Vietnam where U.S. cargo carriers could establish hubs. (Note: The GVN is spending \$700 million to transform Chu Lai Airport into an air cargo transport hub as part of a greater economic development plan for central Vietnam. End note).

¶4. (SBU) The U.S. side retorted that new restrictions on where cargo operations could be based would revoke rights already held by the USG under the current agreement. The GVN ultimately agreed to exclude new language from the agreement and to allow cargo-basing to be determined by conditions at the relevant airports. Vietnam's interest in developing the Chu Lai airport was noted in the

Memorandum of Consultations.

PASSENGER FIFTHS STILL A PROBLEM

15. (SBU) The negotiation discussions on liberalizing passenger services were problematic. Although the Vietnamese delegation offered to eliminate designation and frequency restrictions on passenger routes contained in the old agreement, Vietnam remained unwilling to grant U.S. carriers fifth freedom passenger rights over Japan. (Comment: According to U.S. carriers, fifth freedom rights are essential for commercially viable new service to Vietnam. The failure to conclude an agreement on fifths means that new U.S. passenger service to Vietnam is unlikely in the short term, including flights by Northwest Airlines, which had hoped to expand its route network by initiating service on the underserved Tokyo-HCMC route. For now, United Airlines remains the only U.S. carrier to offer direct service from the United States to Vietnam. End Comment).

16. (SBU) Explaining the GVN's unwillingness to exchange fifth freedom rights with the USG, Thanh claimed Vietnam had tried but failed to secure fifths from the Government of Japan (GOJ) during bilateral aviation talks in May 2007 and noted that such rights were necessary for Vietnam to offer direct services to the U.S. The U.S. side pointed to evidence on the website of the GOJ's Ministry of Land, Infrastructure, Transport and Tourism (MLIT) indicating that Japan, in fact, did offer Vietnam limited fifth freedom traffic rights at the 2007 talks.

17. (SBU) Thanh responded that the 2007 agreement merely gave Vietnam's carriers the right to make technical stops in Japan (i.e., refuel without taking on passengers). (Note: Members of the U.S. delegation had heard from Japanese sources that Vietnam had either refused the fifth freedom rights offered by Japan or asked Japan to

HANOI 00001215 002.2 OF 002

defer the rights for several years until Vietnam Airlines was prepared to begin flights on its long-planned HCMC-Osaka-Los Angeles (LAX) route. End note.)

18. (U) Thanh concluded that while Vietnam recognized the economic benefits that expanded passenger services would bring, the GVN needed to provide for "minimal equality" of opportunity for Vietnam Airlines and a "balance of interests" between the passenger carriers of both sides. The U.S. side countered that broader economic interests would be served by opening new service, and that the USG does not perceive aviation relations as a zero sum game. The two sides intend to meet again within two years to work toward further liberalization, including a possible exchange of fifth freedom passenger rights.

MICHALAK